

SNOWBOY SYSTEMS LIMITED

TERMS AND CONDITIONS OCTOBER 2011

The Customer's attention is particularly drawn to the provisions of clause 15.

1. INTERPRETATION

1.1 **Business Day:** a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Conditions: these terms and conditions as amended from time to time in accordance with clause 19.8.

Contract: the contract or contracts between Snowboy and the Customer for the supply of Services and / or Goods in accordance with these Conditions or any one such contract.

Customer: the person or firm who purchases the Services and / or the Goods from Snowboy.

Customer Default: has the meaning set out in clause 4.2.

Customer Services Order: the written offer made by Snowboy to the customer to provide the Services.

Default Event: has the meaning set out in clause 16.2.

Delivery Location: has the meaning set out in clause 8.1.

Due Date: has the meaning set out in clause 12.6.

Deliverables: the deliverables (if any) set out in the Customer Services Order.

Force Majeure Event: has the meaning set out in clause 19.1 (a).

Goods: the goods (if any) or any part of them to be sold to the Customer and set out in the Goods Order.

Goods Order: and offer made by the Customer to Snowboy in the manner provided for in clause 6.1.

Goods Price: the price payable by the Customer for the supply of Goods in accordance with clause 11.1.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Service Commencement Date: has the meaning set out in clause 2.2.

Services: the services (if any), including the Deliverables, to be provided by Snowboy to the Customer as set out in the Customer Services Order.

Services Order: the Customer's order for Services as set out in the Customer Services Order.

Services Price: the charges payable by the Customer for the supply of Services in accordance with clause 5.

Services Specification: the description or specification of the Services provided in writing by Snowboy to the Customer in the Customer Services Order.

Snowboy: Snowboy Systems Limited registered in England and Wales with company number 07232705 whose registered office is at Unit 10, Glen Industrial Estate, Essendine, Stamford, Lincolnshire PE9 4LE, United Kingdom.

Supplier Materials: has the meaning set out in clause 4.1(g).

Warranty Period: has the meaning set out in clause 9.1.

1.2 Construction. In these Conditions, the following rules apply:

- (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its personal representatives, successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

- (d) any phrase introduced by the terms including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to writing or written includes faxes and e-mails.

2. BASIS OF CONTRACT FOR SERVICES

2.1 The Customer Services Order constitutes an offer by Snowboy to provide Services in accordance with these Conditions.

2.2 The Customer Services Order shall only be deemed to be accepted when the Customer issues written acceptance of the Customer Services Order at which point and on which date the Contract relating to the Services shall come into existence (Service Commencement Date).

3. SUPPLY OF SERVICES

3.1 Snowboy shall supply the Services to the Customer in accordance with the Services Specification in all material respects.

3.2 Snowboy shall use all reasonable endeavours to meet any performance dates specified in the Customer Services Order, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

3.3 Snowboy shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services. Snowboy shall as soon as is reasonably possible notify the Customer of any such circumstances.

3.4 Snowboy warrants to the Customer that the Services will be provided using reasonable care and skill.

4. CUSTOMER'S OBLIGATIONS IN RELATION TO SERVICES

4.1 The Customer shall:

- (a) ensure that the terms of the Services Order and any information provided in connection with it are complete and accurate;
- (b) co-operate with Snowboy in all matters relating to the Services;
- (c) provide Snowboy, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by Snowboy to enable it to supply the Services;
- (d) provide Snowboy with such information and materials as Snowboy may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
- (e) prepare the Customer's premises for the supply of the Services;
- (f) obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start;
- (g) keep and maintain all materials, equipment, documents and where applicable Deliverables and other property of Snowboy (Supplier Materials) at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to Snowboy, and not dispose of or use the Supplier Materials other than in accordance with Snowboy's written instructions or authorisation; and
- (h) ensure that all staff employed by Snowboy or its agents or sub contractors whose services are provided in connection with provision of the Services are treated fairly and in all respects according to law and where applicable as if they were employees of the Customer.

4.2 If Snowboy's performance of any of its obligations under the Contract relating to the Services is prevented or delayed by any act or omission of the Customer or failure by the Customer to perform any relevant obligation (Customer Default):

- (a) Snowboy shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Snowboy's performance of any of its obligations;

- (b) Snowboy shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Snowboy's failure or delay to perform any of its obligations as provided for in this clause 4.2; and
- (c) the Customer shall reimburse Snowboy on written demand for any costs or losses sustained or incurred by Snowboy arising directly or indirectly from the Customer Default.

5. CHARGES AND PAYMENT FOR SERVICES

5.1 The Charges for the Services shall be on a time and materials basis:

- (a) the Charges shall be calculated in accordance with Snowboy's daily fee rates, as set out in the Customer Services Order;
- (b) Snowboy's daily fee rates for each individual are calculated on the basis of a ten-hour working day worked on Business Days. During each working day each such individual shall be entitled to a one hour lunch break which does not form part of the ten-hour working day;
- (c) Snowboy shall be entitled to charge an overtime rate specified in the Customer Services Order for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 5.1(b) including any hours worked after midnight; and
- (d) Snowboy shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom Snowboy engages in connection with the Services including, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by Snowboy for the performance of the Services, and for the cost of any materials including any Consumables.

5.2 Snowboy shall provide the Customer with a pro-forma invoice prior to provision of the Services.

5.3 Unless otherwise agreed by Snowboy in writing the Customer shall pay the amount specified in each pro-forma invoice submitted by Snowboy:

- (a) prior to provision of the Services to which it relates and in any event within 20 Business Days of the date of the pro-forma invoice; and
- (b) in full and in cleared funds to a bank account or in such other manner nominated in writing by Snowboy, and time for payment shall be of the essence of the Contract.

6. BASIS OF CONTRACT FOR SUPPLY OF GOODS

6.1 An order for Goods or an offer to purchase Goods made by the Customer to Snowboy constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Goods Order and any applicable specification submitted by the Customer are complete and accurate.

6.2 The Order shall only be deemed to be accepted when Snowboy issues a written acceptance of the Goods Order (which without limitation may be in the form of a pro-forma invoice or invoice for the Goods) at which point the Contract relating to the Goods shall come into existence.

7. GOODS

7.1 Goods are described on Snowboy's website at www.snowboy.co.uk.

7.2 To the extent that the Goods are to be manufactured in accordance with a specification supplied by the Customer, the Customer shall indemnify Snowboy against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by Snowboy in connection with any claim made against Snowboy for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with Snowboy's use of such specification. This clause 7.2 shall survive termination of the Contract.

7.3 Snowboy reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory

requirements or in any way which does not materially affect the specification or performance of the Goods. Snowboy shall as soon as is reasonably possible notify the Customer of any such circumstances.

8. DELIVERY OF GOODS

8.1 Snowboy shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (Delivery Location) at any time after Snowboy notifies the Customer that the Goods are ready.

8.2 Delivery of the Goods shall be completed on the Goods arrival at the Delivery Location.

8.3 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Snowboy shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Snowboy with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

8.4 If Snowboy fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, limited nevertheless to the Goods Price. Snowboy shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide Snowboy with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

8.5 Within three Business Days of Snowboy notifying the Customer that the Goods are ready and sending them to the Customer, then, except where such failure or delay is caused by a Force Majeure Event or Snowboy's failure to comply with its obligations under the Contract:

- (a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which Snowboy notified the Customer that the Goods were ready and sent them; and
- (b) Snowboy shall take reasonable care of the Goods until delivery takes place.

8.6 If the Customer fails to take or accept delivery of the Goods Snowboy will be entitled to charge the Customer for all related costs and expenses (including additional courier charges and insurance) and the Customer will pay the same to Snowboy within 5 Business Days of receipt of an invoice for the same.

8.7 If 10 Business Days after the day on which Snowboy notified the Customer that the Goods were ready for delivery and sends them the Customer has not taken or accepted delivery of them, Snowboy may resell or otherwise dispose of part or all of the Goods and charge the Customer for any shortfall below the Goods Price.

8.8 Snowboy may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

9. QUALITY OF GOODS

9.1 Snowboy warrants that on delivery, and for a period of 6 months from the date of delivery (Warranty Period), the Goods shall:

(a) conform in all material respects with their description and any applicable specification;

(b) be free from material defects in design, material and workmanship; and

(c) be fit for any purpose held out by Snowboy.

9.2 Subject to clause 9.3, if:

(a) the Customer gives notice in writing to Snowboy during the Warranty Period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 9.1; and

(b) Snowboy is given a reasonable opportunity of examining such Goods; and

(c) the Customer (if asked to do so by Snowboy) makes such Goods available for collection from the Delivery Location applicable to them, Snowboy shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

9.3 Snowboy shall not be liable for Goods failure to comply with the warranty set out in clause 9.1 in any of the following events:

- (a) the Customer makes any further use of such Goods after giving notice in accordance with clause 9.2;
- (b) the defect arises because the Customer failed to follow Snowboy's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- (c) the defect arises as a result of Snowboy following any drawing, design or Specification supplied by the Customer;
- (d) the Customer alters or repairs such Goods without the written consent of Snowboy;
- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- (f) the Goods differ from their description or the specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

9.4 Except as provided in this clause 9, Snowboy shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 9.1.

9.5 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

9.6 These Conditions shall apply to any repaired or replacement Goods supplied by Snowboy for the period ending 6 months from the first date of delivery of the repaired or replaced Goods to the Delivery Location under the terms of the Contract.

10. TITLE AND RISK IN GOODS

10.1 The risk in the Goods shall pass to the Customer on completion of delivery to the Delivery Location.

10.2 Title to the Goods shall not pass to the Customer until Snowboy has received payment in full (in cash or cleared funds) for:

- (a) the Goods; and
- (b) any other goods or services that Snowboy has supplied to the Customer in respect of which payment has become due.

10.3 Until title to the Goods has passed to the Customer, the Customer shall:

- (a) hold the Goods on a fiduciary basis as Snowboy's bailee;
- (b) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Snowboy's property;
- (c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
- (d) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- (e) notify Snowboy immediately if it becomes subject to any of the events listed in clause 16.2; and
- (f) give Snowboy such information relating to the Goods as Snowboy may require from time to time, but the Customer may resell or use the Goods in the ordinary course of its business.

10.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 16.2, or Snowboy reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the Goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy Snowboy may have, Snowboy may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

11. PRICE AND PAYMENT FOR GOODS

11.1 The price of the Goods shall be the price set out in the Goods Order, but if a price for the Goods is set out in Snowboy's

written acceptance of the Goods Order then the price set out in the written acceptance will be the price for the Goods. If no price is quoted in either the Goods Order or such written acceptance of it, the price set out in Snowboy's Goods price list in force as at the date of delivery will be the price for the Goods.

11.2 Snowboy may, by giving notice to the Customer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

- (a) any factor beyond Snowboy's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
- (c) any delay caused by any instructions of the Customer or failure of the Customer to give Snowboy adequate or accurate information or instructions.

11.3 The price of the Goods is exclusive of the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer.

11.4 Snowboy may invoice the Customer for the Goods on or at any time before or after the completion of delivery.

11.5 Unless otherwise agreed in writing the Customer shall pay the price of the Goods and the costs (if any) provided for in clause 11.3 to Snowboy in full and in cleared funds prior to delivery of the Goods. In any event the Customer shall pay the price of the Goods to Snowboy in full and in cleared funds within 20 Business Days of delivery of an invoice or pro-forma invoice for the same. Time of payment is of the essence.

12. BASIS OF THE CONTRACT GOODS AND SERVICES

12.1 The Contract (and each of them if more than one) constitutes the entire agreement between the parties in connection with the provision of the Services and / or the supply of Goods. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Snowboy which is not set out in the Contract.

12.2 Any samples, drawings, descriptive matter or advertising issued by Snowboy, and any descriptions or illustrations contained in Snowboy's catalogues or brochures or on its website, are issued or published for the sole purpose of giving an approximate description of the Services and / or Goods described in them. They shall not form part of the Contract or have any contractual force.

12.3 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

12.4 Any quotation given by Snowboy shall not constitute an offer, and is only valid for a period of 60 Business Days from its date of issue.

12.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of Value Added Tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Contract by Snowboy to the Customer, the Customer shall, be provided with a valid VAT invoice from Snowboy.

12.6 Without limiting any other right or remedy of Snowboy, if the Customer fails to make any payment due to Snowboy under the Contract by the due date for payment (Due Date), Snowboy shall have the right to charge interest on the overdue amount at the rate of 01.25% per cent per calendar month accruing on a daily basis from the Due Date and compounding calendar monthly until the date of actual payment of the overdue amount, whether before or after judgment.

12.7 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Snowboy in order to justify withholding payment of any such amount in whole or in part. Snowboy may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by Snowboy to the Customer.

13. INTELLECTUAL PROPERTY RIGHTS

13.1 All Intellectual Property Rights in or arising out of or in connection with either Goods or Services shall be owned by Snowboy.

13.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on Snowboy obtaining a written licence from the relevant licensor on such terms as will entitle Snowboy to license such rights to the Customer.

13.3 All Supplier Materials are the exclusive property of Snowboy.

14. CONFIDENTIALITY

A party (Receiving Party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (Disclosing Party), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 14 shall survive termination of the Contract.

15. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

15.1 Nothing in these Conditions shall limit or exclude Snowboy's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

15.2 Subject to clause 15.1:

- (a) Snowboy shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) Snowboy's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall not exceed the amount payable to Snowboy by the Customer under the terms of the Contract.

15.3 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

15.4 This clause 15 shall survive termination of the Contract.

16. CUSTOMER'S INSOLVENCY OR INCAPACITY

16.1 If the Customer becomes subject to any of the events listed in clause 16.2, or Snowboy reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to Snowboy, Snowboy may cancel or suspend all further provision of Services and / or deliveries of Goods under the Contract or under any other contract between the Customer and Snowboy without incurring any liability to the Customer, and all outstanding sums in respect of Services provided to the Customer and / or Goods delivered to the Customer shall become immediately due.

16.2 For the purposes of clause 16.1, the relevant events are (Default Event):

- (a) the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so

doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;

(b) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Customer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;

(c) (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer, other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;

(d) (being an individual) the Customer is the subject of a bankruptcy petition or order;

(e) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;

(f) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;

(g) (being a company) a floating charge holder over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;

(h) a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;

(i) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 16.2(a) to clause 16.2(h) (inclusive);

(j) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business;

(k) the Customer's financial position deteriorates to such an extent that in Snowboy's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; and

(l) (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

16.3 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

17. TERMINATION

17.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:

(a) the other party commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach or take substantial continuous steps to remedy it within 10 Business Days of that party being notified in writing of the breach;

(b) the other party is the subject of a Default Event.

17.2 Without limiting its other rights or remedies, Snowboy may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

17.3 Without limiting its other rights or remedies, Snowboy shall have the right to suspend provision of the Services and / or the delivery of Goods under the Contract or any other contract between the Customer and Snowboy if the Customer becomes subject to a Default Event, or Snowboy reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to

pay any amount due under this Contract on the due date for payment.

18. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to Snowboy all of Snowboy's outstanding unpaid invoices and interest and, in respect of Services supplied and Goods delivered. For Services provided and Goods delivered and for which no invoice has been submitted, Snowboy shall submit an invoice or invoices, which shall be payable by the Customer immediately on receipt;
- (b) the Customer shall return all of Snowboy Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then Snowboy may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- (c) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

19. GENERAL

19.1 Force majeure:

- (a) For the purposes of this Contract, Force Majeure Event means an event beyond the reasonable control of Snowboy including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of Snowboy or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- (b) Snowboy shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- (c) If the Force Majeure Event prevents Snowboy from providing any of the Services or Goods for more than 20 Business Days, Snowboy shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

19.2 Assignment and subcontracting:

- (a) Snowboy may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- (b) The Customer shall not, without the prior written consent of Snowboy, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

19.3 Notices:

- (a) Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number or sent by email to and received by an email address provided by the party to whom it is sent.
- (b) Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax or email, on the next Business Day after transmission.
- (c) This clause 19.3 shall not apply to the service of any proceedings or other documents in any legal action.

19.4 Waiver:

(a) A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

(b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

19.5 Severance:

(a) If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

(b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

19.6 No partnership: Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

19.7 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.

19.8 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract, shall only be binding when agreed in writing by Snowboy.

19.9 Governing law and jurisdiction: This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.